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| 10/807,388 | 03/24/2004 | Theodore Rappaport | WV00015 CP3 | 3327 |

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| EXAMINER |
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COLBERT, ELLA

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| ART UNIT | PAPER NUMBER |
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3696

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08/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/807,388 | Applicant(s) RAPPAPORT ET AL. | |
| | Examiner Ella Colbert | Art Unit 3696 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 13-30 are pending. Claims 95 and 96 have been cancelled in this communication in Response to the Election/Restriction filed 05/22/09.

Group I, claims 13-30 were elected for prosecution on the merits and claims 95 and 96 have been cancelled without prejudice.

Applicants' election without traverse of claims 13-30 in the response filed 05/22/09 is acknowledged.

Claims 95 and 96 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. There being no allowable generic or linking claim. Election was made without traverse in the reply filed on 05/22/09.

Claim Objections

Claim 14 is objected to because of the following informalities: Claim 14 recites "automatic fashion". This claim limitation would be better recited as "performed automatically without feedback ...". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 14, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites “may be deployed” which is not a positive recitation. This claim limitation would be better recited as “will be deployed” which is a positive recitation.

Claim 14 recites "... verifying and notifying step is performed ...". There is not any "verifying and notifying step prior to this claim or this claim limitation. Claim 15 has a similar issue.

Claim 15 recites "... wherein said notifying in said verifying and notifying step is performed by prompting the user, and ..., ... in response to an insufficiency notification". It is vague and indefinite how the insufficiency notification takes place. How is the user notified? Is the user notified by a flag or some type of alert or by a message on the computer screen?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 5,949,988) Feisullin et al, hereafter Feisullin.

Claim 13. Feisullin discloses, A computer implemented method for creating, formatting or editing a database for representing a three dimensional physical environment where a wireless communications network may be deployed, comprising the steps of:

a) accepting at least one raster image representing a physical environment in which an

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in- building or campus communications network is or will be deployed (col. 5, lines 12-32); b) verifying the sufficiency of said at least one raster image to provide a useful definition of said three dimensional physical environment and notifying a user of results of said verification of sufficiency, said verifying step producing a verified set of data defining said three dimensional physical environment, wherein said verifying the sufficiency step includes scaling said at least one raster image (col. 5, lines 33-67); c) using the resulting verified set of data to generate at least one formatted drawing or a set of formatted data which includes at least one or more objects for use in and being transportable to a communications engineering or network management application (col. 6, lines 50-59); and d) rendering a three dimensional view representative of said physical environment using the drawing or set of formatted data having the at least one or more objects (col. 8, lines 17-37 and col. 9, lines 5-54)..

Claim 14. Feisullin discloses, The method of claim 13 wherein said notifying performed in said verifying and notifying step is performed in an automatic fashion without feedback being provided to the user (col. 9, line 55-col. 10, line 65)..

Claim 15. Feisullin discloses, The method of claim 13 wherein said notifying performed in said verifying and notifying step is performed by prompting the user and, when required to provide said useful definition, requires the user to correct any insufficiencies in response to an insufficiency notification (col. 16, lines 6-16).

Claim 16. Feisullin discloses, The method of claim 13 wherein said communications engineering or network management application is selected from the group consisting of one or more of wireless propagation prediction, measurement tools, component

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placement or layout visualization tools, optimization tools, bill of materials generating tools, and network performance management or prediction tools (col. 11, line 11-col. 12, line 16 and line 63-col. 13, line 34).

Claim 17. Feisullin discloses, The method of said claim 13 further comprising the step of adding or deleting at least one object in said at least one formatted drawing or said set of formatted data (col. 12, 63-col. 13, line 50-col. 14, line 10).

Claim 18. Feisullin discloses, The method of claim 13 further comprising the step of editing at least one object in said at least one formatted drawing or said set of formatted data (col. 14, lines 11-31).

Claim 19. Feisullin discloses, The method of claim 13 further comprising the step of moving at least one object in said at least one formatted drawing or said set of formatted data (col. 15, line 32-col. 3).

Claim 20. Feisullin discloses, The method of claim 13 further comprising the step of removing extraneous objects from said at least one raster image (col. 16, lines 6-16-The extraneous objects can be removed at this point).

Applicant(s) are reminded that as a matter of linguistic precision, optional or conditional elements (e.g. "if," "may","or", etc.) do not narrow the claims because they can always be omitted. See also MPEP §2106 II C: "Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,949,988) Feisullin et al, hereafter Feisullin.

Claim 21. Feisullin discloses, The method of claim 13 further comprising the step of tracing and adding a traced object to said at least one formatted drawing or said set of formatted data (col. 16, lines 17-40).

Claim 22. Feisullin failed to disclose, The method of claim 21 wherein either or both of said steps of tracing and adding are performed before said verifying step. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the tracing and adding a traced object in the formatted drawing or set of formatted data because this would allow the object to have the data with the object and to be customized to the formatting type.

1. Claim 23. Feisullin discloses, The method of claim 13 further comprising modifying at least one of electrical properties, physical properties, aesthetic properties, and spatial configuration of at least one object (col. 13, line 50-col. 14, line 10).

Claim 24. Feisullin discloses, The method of claim 23 further comprising the step of moving an object in said set of formatted data or said at least one formatted drawing (col. 12, line 63-col. 13, line 50-col. 14, line 10).

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Claim 25. Freisullin discloses, The method of claim 13 further comprising the step of editing or modifying an object in said set of formatted data or said at least one formatted drawing (col. 14, lines 11-31).

Claim 26. Freisullin discloses, The method of claim 13 further comprising the step of removing extraneous objects from said one or more objects (col. 16, lines 6-16-The extraneous objects can be removed at this point).

Claim 27. Freisullin discloses, The method of claim 13 further comprising the step of tracing and adding data representing a traced object (col. 16, lines 17-40).

Claim 28. Freisullin discloses, The method of claim 13 further comprising the step of adding measurements to said at least one formatted drawing or said set of formatted data (col. 12, line 63-col. 13, line 49).

Claim 29. Freisullin discloses, The method of claim 13 further comprising the step of adding measurements to said verified set of data (col. 13, lines 24-49).

Claim 30. Freisullin discloses, The method of claim 13 further comprising the step of specifying or invoking a propagation model for performing predictions of performance (col. 15, line 4-col. 16, line 40).

Applicant(s) are reminded that as a matter of linguistic precision, optional or conditional elements (e.g. "if," "may," "or", etc.) do not narrow the claims because they can always be omitted. See also MPEP §2106 II C: "Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

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2. USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted “in view of the specification” without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki (US 5,272,642) disclosed a CAD/CAM with a hierarchical structure and 3D forms.

Miodonski et al (US 6,414,679) disclosed displaying three dimensional representations.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

August 3, 2009